

# BQA Quarterly Information Update

May 2005

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## New Office of Caregiver Quality Supervisor

The Bureau of Quality Assurance (BQA) is pleased to announce that Shari Busse has been hired to fill the Office of Caregiver Quality (OCQ) Supervisor position, effective April 3, 2005.

Shari begins her new position in OCQ with a wealth of experience in both the regulation and investigation of non-credentialed caregiver quality. Prior to her appointment, Shari worked in BQA as a program and planning analyst in nurse aide training and testing, and as a quality assurance program specialist in caregiver investigation. Prior to her employment with DHFS, Shari worked for the Department of Workforce Development, and also worked as a supervisor in the private sector.

Shari holds a Bachelor's Degree in Criminal Justice from Saginaw Valley State University in Michigan.

Shari can be reached by telephone at 608-243-2084 or via email at [bussese@dhfs.state.wi.us](mailto:bussese@dhfs.state.wi.us). Please join us in welcoming Shari to her new position.

## Caregiver Program Video Posted Online

The video, "The Wisconsin Caregiver Program: A Blueprint for Quality Care," has now been posted online. Access the video and its guide brochure via the Caregiver Program Publications page at <http://dhfs.wisconsin.gov/caregiver/publications/PublctnsINDEX.HTM>. If you need assistance in viewing this presentation, be sure to click on the words "Webcast, Help" that follow the video link.

## Directories for Facilities Serving Ventilator-Dependent and Traumatic Brain Injured Individuals

Two useful directories have now been posted to the Internet at

<http://dhfs.wisconsin.gov/bqaconsumer/directories.htm>:

- Facilities with Dedicated Units for the Care of Ventilator-Dependent Persons (replacing BQA Memo 02-015)
- Traumatic Brain Injury (TBI) Programs

If you have any questions about these directories, please contact Lydia Reitman at (608) 266-7881.

## BQA Numbered Memos February-April 2005

Memo	Title	Providers Affected
05-002	<a href="#">Freedom of Choice of Pharmacy Provider</a>	Adult Family Homes, Community Based Residential Facilities, Residential Care Apartment Complexes
05-003	<a href="#">Destruction of Medications</a>	Adult Family Homes, Community Based Residential Facilities, Residential Care Apartment Complexes
05-004	<a href="#">Reporting Allegations of Abuse in Nursing Homes</a>	Nursing Homes
05-005	<a href="#">Informal Dispute Resolution Procedure</a>	Facilities Serving People with Developmental Disabilities, Nursing Homes
<b>Pending Memos to be issued:</b>		
Care Level Determination for Care Management Organization Enrollees in Family Care (nursing homes)		

Access these memos via [http://dhfs.wisconsin.gov/rl\\_DSL/Publications/BQAnodMems.htm](http://dhfs.wisconsin.gov/rl_DSL/Publications/BQAnodMems.htm), or from individual providers' publications pages via [http://dhfs.wisconsin.gov/rl\\_DSL/](http://dhfs.wisconsin.gov/rl_DSL/).

The following BQA memos have been **made obsolete**:

- 02-015, replaced by "Wisconsin Facilities with Dedicated Units for the Care of Ventilator Dependent Persons" online at <http://dhfs.wisconsin.gov/bqaconsumer/ventilator.htm>.
- 04-001, "Alcohol-Based Hand Sanitizers" has been replaced by new federal and National Fire Protection Association (NFPA) information on this page [http://dhfs.wisconsin.gov/rl\\_DSL/Providers/SmokeRubs.htm](http://dhfs.wisconsin.gov/rl_DSL/Providers/SmokeRubs.htm) - see [article on hand rubs and smoke detectors](#).
- 90-077, "General Waivers of HSS 132 Requirements Effective 10/1/90," replaced by information on waiver grid, see article, "[Chapter 132 Waivers – Nursing Homes](#)."
- Both 93-010, "Waiver of Certain HSS 132 and HSS 134 Code Provisions," and 88-010, "State-wide Variance for the Use of Regular Admission Procedures for Short-term Admissions," have had their language incorporated into recent revisions of HFS 132 and HFS 134.

## **Upcoming 5<sup>th</sup> Annual Bureau of Quality Assurance Long Term Care Conference, Focus 2005**

This year's event sponsored by the Department of Health and Family Services, the Division of Disability and Elder Services, and BQA, is entitled, "Collaborating for Quality – Wisconsin Working Together." A shared vision of person-centered care and culture change is the theme. The annual conference has two new features this year. There will be a pre-conference on dementia and Alzheimer's care and there will also be a joint conference for both health care providers and BQA survey staff.

The events will be held at the Radisson Paper Valley Hotel in Appleton. Caregivers and management staff from health care providers, as well as BQA survey staff, will find the conference full of stimulating topical presentations.

The pre-conference session on Tuesday, August 9 will feature Jane Verity, founder and director of Dementia Care Australia. Ms. Verity is an internationally recognized speaker on Dementia and Alzheimer's care and will present innovative programming ideas. This session will be open to all types of health care providers, as well as to BQA staff. The pre-conference is being offered in collaboration with the Bureau of Aging and Long Term Care.

The BQA 5<sup>th</sup> annual Focus 2005 Conference will take place on Wednesday, August 10. Dr. Donald Redfoot from the American Association of Retired Persons will address current and future changes in the delivery of long term care services. The other keynote speaker will be Linda Bump from Action Pact. Ms. Bump's presentation will focus on creating a culture of high staff satisfaction and retention, and creating home and community within the regulatory guidelines of Omnibus Reconciliation Act of 1987 (OBRA).

Breakout sessions will feature speakers on diabetes, pressure ulcers, root cause analysis, assessment for assisted living providers, transition from nursing home to assisted living, and nursing delegation. There will also be facilitated BQA/provider panel discussions on common issues and recommended solutions. In addition, nationally known psychiatrist Dr. Ruth Ryan, will address managing behaviors for people with developmental disabilities.

The conference brochure will be mailed out to health care providers by the first part of June 2005. Registration for the conference will be available online and through the mail. Check the BQA website at [http://dhfs.wisconsin.gov/rl\\_DSL/Training/index.htm](http://dhfs.wisconsin.gov/rl_DSL/Training/index.htm).

## **The Wisconsin Caregiver Program Manual**

The Caregiver Program is implemented under ss.50.065 and ss.146.40, Wis. Stats. and Chapters HFS 12 and 13 of the Wisconsin Administrative Code. [The Wisconsin Caregiver Program Manual](#) provides detailed information about the Caregiver Law as it relates to BQA-regulated entities.

While the Wisconsin Caregiver Law applies to all entities regulated by the Department of Health and Family Services (DHFS), this manual focuses on health care providers regulated by BQA and is designed to provide clear policy and procedure direction regarding caregiver background checks, the Rehabilitation Review process, and misconduct reporting requirements. It is intended to assist entity owners, employees, and nonclient residents in understanding their roles and responsibilities under the Wisconsin Caregiver Law.

The Caregiver Program Manual was issued in July 2000, updated in June 2001 and again in March 2005. Because it is frequently updated, the Internet version of the Manual can be relied on to provide the most accurate and current information available. Each chapter can be printed independently, allowing selectivity.

The Wisconsin Caregiver Program Manual may be accessed via <http://dhfs.wisconsin.gov/caregiver/publications/CgvrProgMan.htm>.

## CBRF Plan Review Reminder

All construction plans for new Community Based Residential Facilities (CBRFs) of any size, and any additions to existing buildings, **must be reviewed and approved** by DHFS prior to construction. Refer to Wisconsin Administrative Code section HFS 83.56(2) for further details.

For plan review assistance, visit the department web site at [http://dhfs.wisconsin.gov/rl\\_DSL/PlanReview/index.htm](http://dhfs.wisconsin.gov/rl_DSL/PlanReview/index.htm) and reference forms DDE-2333 for CBRFs attached to health care facilities or DDE-2496 for freestanding CBRFs, or call BQA's Plan Review staff at (608) 243-2088. **Follow Sections HFS 83.56(2) and (3) for plan review submission and fee requirements.**

## Assisted Living Section Streamlines License/Certification Renewal Process

Effective with license/certification renewals for April 2005, BQA has implemented a streamlined, more "user friendly" renewal process. Existing providers no longer need to complete and submit lengthy application forms for renewals, containing information that the Bureau already has! Instead, the renewal is formatted as an annual/biennial report. These reports are printed from the assisted living facility database, and show the most current information BQA has about that provider. The provider is asked to review the report, make the necessary changes, and provide minimal additional information.

The following comment is from a large provider corporation: "I wanted to share our delight in completion of our first revised license renewal applications. The process was greatly improved! It was streamlined and efficient. We were cautious in our completion of the license, thinking we must be missing something because it was so easy! KUDOS to the Department for the efforts in hearing provider feedback and implementing a process which reflects that. We are impressed!"

## Chapter HFS 132 – Nursing Home Waivers

The following information replaces BQA memo 90-077, “General Waivers of HSS 132 Requirements Effective 10/1/90.” These provisions have been previously waived for T-18 & T-19 or dually certified facilities, but are still applicable to state licensed only facilities. This grid will be posted to the Internet via [http://dhfs.wisconsin.gov/rl\\_DSL/NHs/NHprovids.htm](http://dhfs.wisconsin.gov/rl_DSL/NHs/NHprovids.htm).

HFS 132 Provision	Title/Subject Area	Authority Fed. Reg.	Rationale	Notations
132.45 (5) b 5.	Alternate physician visit schedule justification	483.40 (c) (1)	These documentation requirements are waived because the requirement to do the activity was waived.	These requirements are already encompassed in section 132.60 (8) under resident care planning.  Keep language in rule for state licensed only facilities.
132.60 (5) (b) 1. and 2.	Oral orders, oral orders without nurses and stop orders		The federal requirements are silent on these issues.	Keep language in rule for state licensed only facilities.
132.61 (2) (b) 1., 2., & 3.	Medical Services-- Physician's visits	483.40 See Tag F387	Superseded by the federal physician visit requirements. (483.40)	Keep language in rule for state licensed only facilities.
132.65 (6) (f) 1.	Resident Control of medications	483.10(n)	More prescriptive than federal requirements for drug self-administration	Keep language in rule for state licensed only facilities.
132.67 (3)	Dental Care	483.55	More prescriptive than federal dental services requirements	Keep language in rule for state licensed only facilities.
132.69 (2) (a) through d.	“Activities” “Qualified activities coordinator”	483.15 (f)	Federal requirements prevail to avoid confusion 483.15 (f)	Keep language in rule for state licensed only facilities.

## OASIS and MDS - Need to Upgrade Computers

Home health agencies (HHAs) and nursing homes will be required to meet new minimum computer system and software requirements to access their outcome and data management reports for both OASIS and MDS applications. In January 2006, CMS will transition to new reporting software and HHAs will have to update their computers to meet the minimum requirements as specified in Survey and Certification Letter 05-22, dated March 10, 2005. This memo is posted at [www.cms.hhs.gov/medicaid/survey-cert/sc0522.pdf](http://www.cms.hhs.gov/medicaid/survey-cert/sc0522.pdf).

## **MDS Information**

### **Revisions to the RAI Manual Delayed – New Effective Date June 15, 2005**

A revised version of the December 2002 RAI Manual, Version 2.0 is expected to be released by CMS on May 23, 2005, and will be effective June 15, 2005. Please note that CMS had previously posted the latest RAI revisions that were planned to be effective May 1, 2005, but CMS has delayed the implementation of these revisions. Updates to the RAI manual can be viewed and downloaded from the CMS MDS 2.0 website at [www.cms.hhs.gov/quality/mds20](http://www.cms.hhs.gov/quality/mds20).

### **New MDS Section W to be Implemented October 2005**

A new version of the MDS data specifications (data specs) will be implemented this Fall and a Section W will be added. MDS data specs version 1.30 will include mandatory questions on influenza and pneumococcal vaccines. The implementation of the new items will become effective for assessment with an assessment reference date on or after 10/1/2005. A copy of the 1.30 data specs can be downloaded from the “What’s New” area of the CMS MDS 2.0 website at [www.cms.hhs.gov/medicaid/mds20](http://www.cms.hhs.gov/medicaid/mds20).

CMS is hosting a software vendor teleconference in April, and is also planning an August satellite training program for nursing homes on the new Section W. The following five questions will be added to a new Section W:

- W1. National Provider ID -- a voluntary item that is active on the header record and all MDS data records.
- W2a. Influenza vaccine received or not -- required on assessment and discharge data records relevant to the influenza season.
- W2b. Reason influenza vaccine not received -- required on assessment and discharge data records relevant to the influenza season.
- W3a. Pneumococcal vaccine (PPV) status (received or not) -- required on assessment and discharge data records for residents 65 years old and older.
- W3b. Reason PPV not received -- required on assessment and discharge data records for residents 65 years old and older.

### **New MDS Quality Indicator/Quality Measure Reports**

New MDS Quality Indicator/Quality Measure (QI/QM) reports are scheduled for release, effective June 19<sup>th</sup>, 2005. The new MDS QI/QM reports will replace the previous MDS QI reports that are currently available from the Analytic Reports area of the State MDS System. Nursing homes will access the new QI/QM reports using the Certification and Survey Provider Enforcement and Reporting (CASPER) system through a link on the State MDS System. Training information on the new QI/QM reports is available on the main MDS Welcome Page of the State MDS System.



## OASIS Items

### Home Health Compare to Change

CMS will be revising the quality measures reported on Home Health Compare. Home Health Compare provides publicly reported quality measures on every Medicare-certified home health agency (HHA). This information can be accessed at [www.medicare.gov](http://www.medicare.gov). Based on National Quality Forum endorsement, CMS is expected to revise the measures with the September 2005 release. You can obtain information on the quality measures to be added and deleted at: [www.cms.hhs.gov/quality/hhqi/endorsement.pdf](http://www.cms.hhs.gov/quality/hhqi/endorsement.pdf).

### Frequent Questions and Answers on OASIS Wound Data Items

Clinicians frequently have questions on how to interpret the OASIS wound data items. Some of the questions and answers (Q&As) provided by CMS are listed below for you to review and incorporate in your assessments. You can find these and many more Q&As in the CMS August 2004 Q&As. The link to this resource, as well as other Q&As, is in Bulletins on the State OASIS System Welcome page.

***Question 1. M0440: Integumentary Status, please clarify CMS's interpretation of a skin lesion.***

Answer 1: "Lesion" is a broad term used to describe an area of pathologically altered tissue. Wounds, sores, ulcers, rashes, crusts, etc. are all considered lesions. So are bruises or scars. In responding to the item, the only "lesions" that should be disregarded are those that end in 'ostomy' (e.g., tracheostomy, gastrostomy, etc.) or peripheral IV sites (central line sites are considered to be surgical wounds). For additional types of skin lesions, please consult a physical assessment text.

***Question 2. M0440: Is a new suprapubic catheter, new PEG site, or a new colostomy considered a wound or lesion?***

Answer 2: A new suprapubic catheter site (cystostomy), new PEG site (gastrostomy), and a new colostomy have one thing in common --they all end in "-ostomy." All ostomies, whether new or long-standing are excluded from consideration in responding to M0440. Therefore, none of these would be considered as a wound or lesion.

***Question 3. M0440: If the patient had a port-a-cath, but the agency was not providing any services related to the cath and not accessing it, would this be coded as a skin lesion at M0440?***

Answer 3: For M0440 you would answer YES for a lesion and continue answering the questions until you come to M0482 -Does this patient have a surgical wound? Respond Yes -#1. The port-a-cath or mediport site is considered a surgical wound even if healed over. The presence of a wound or lesion should be documented regardless of whether the home care agency is providing services related to the wound or lesion.

***Question 4. M0440: Are implanted infusion devices or venous access devices considered surgical wounds at M0440?***

Answer 4: Yes, the surgical sites where such devices were implanted would be considered lesions at M0440 and would be included in the total number of surgical wounds (M0484). It does not matter whether the device is accessed at a particular frequency or not.

***Question 5. M0482-M0488: Is a peritoneal dialysis catheter considered a surgical wound? If it is, how can the healing status of this site be determined?***

Answer 5: Both M0440 and M0482 should be answered "Yes" for a patient with a catheter in place that is used for peritoneal dialysis. You should consider the catheter for peritoneal dialysis (or an AV shunt) a surgical wound (as are central lines and implanted vascular access devices). To answer M0488, the healing status of a wound can only be determined by a skilled assessment (in person). It is possible for such a wound to be considered "fully granulating" (the best level the wound could attain on this particular item) for long periods of time, but it is also possible for such wounds to be considered "early/partial granulation," or "not healing" if the site becomes infected. These sites would not be considered as "non-healing" unless the signs of not healing are apparent. Such a site, because it is being held open by the line itself, may not reach a "fully granulating" state. Assessing the healing status of such a wound is slightly more difficult than a "typical" surgical site. As long as a device is present, the wound will be classified as a surgical wound. Follow the Wound, Ostomy, and Continence Nurses' guidelines (OASIS Guidance Document) found at <http://www.wocn.org/> to determine when healing has occurred.

***Question 6. M0445-M0464: If a pressure ulcer is debrided, does it become a surgical wound as well as a pressure ulcer?***

Answer 6: No, as debridement is a treatment procedure applied to the pressure ulcer. The ulcer remains a pressure ulcer, and its healing status is recorded appropriately based on assessment.

**Look for New BQA OASIS Staff Resource**

Andrea Henrich, OASIS Education Coordinator (OEC), is retiring from state service at the end of May. Until BQA hires her replacement, please contact Chris Benesh with any OASIS questions. Chris will refer your questions to the appropriate resource person. You can contact Chris at (608) 266-1718 or by E-mail to [benesce@dhfs.state.wi.us](mailto:benesce@dhfs.state.wi.us). Look for a status update on the new OEC in future BQA Quarterly Updates.



## Wisconsin Health Facility Fire Information for 2004

Following is a table of information about fires reported to the Department of Health and Family Services from Wisconsin health and residential care facilities for the year 2004:

	<b>Nursing Homes</b>	<b>Hospitals</b>	<b>Assisted Living Facilities</b>
Laundry	0	0	0
Kitchen	5	0	5
Electrical	4	3	3
Smoking/Arson	5	2	6
Mechanical/Construction	10	1	2
Injured	2	0	2
Deaths	0	0	0
Facilities Destroyed	0	0	0
Automobile	0	0	0
<b>Totals</b>	<b>26</b>	<b>6</b>	<b>18</b>

## Suspicious Inquiries at U.S. Hospitals

*The following information is taken from a press release from the Minnesota Public Safety, Homeland Security Emergency Management:*

According to FBI reports, in February and March 2005, three U.S. hospitals in Los Angeles, Boston, and Detroit reported individuals, posing as Joint Commission on Accreditation of Healthcare Organizations (JCAHO) surveyors, arrived at their facilities and asked to tour different areas of the hospitals. One individual entered via the maternity ward and was wandering through the facility before being stopped and questioned.

All these individuals left the premises when staff asked for further information. JCAHO administrators said the individuals were not associated with the Commission nor were there any planned inspections at the facilities.

Between June and August of 2004, similar incidents occurred in Minnesota and South Dakota. At two different hospitals in South Dakota, individuals posing as hospital employees and/or physicians asked to be given tours of the hospitals, specifically the Nuclear Medicine areas. A similar incident occurred at a hospital in Minnesota. In all three incidents, when approached by security and asked for identification, the suspects fled from the hospital facilities.

Based on these incidents, local law enforcement and hospital security should be alert to similar incidents within their jurisdictions and report suspicious activity to the FBI.

## Life Safety Deadline: March 13, 2006

One year remains of the three year compliance period for roller latches and emergency lighting.

The effective date of the 2000 edition Life Safety Code (LSC) regulation was March 11, 2003. Buildings had until September 11, 2003, to comply with this edition of the LSC, except for the following two exceptions. These exceptions are to be met by March 13, 2006:

- The regulation requires providers and suppliers to replace existing roller latches on corridor doors with positive latching devices in both existing sprinklered and unsprinklered buildings.
- Emergency lighting, where required, is to provide illumination for at least a 90-minute duration.

Copies of the Federal Register document detailing the requirements can be obtained at [http://dhfs.wisconsin.gov/rl\\_DSL/Publications/FireSafety.pdf](http://dhfs.wisconsin.gov/rl_DSL/Publications/FireSafety.pdf).

## Underwriters Laboratories: Potentially Hazardous Electric Current Tap

The following is taken from Underwriters Laboratories' Internet site's story at [www.ul.com/media/newsrel/nr031405.html](http://www.ul.com/media/newsrel/nr031405.html):

Underwriters Laboratories, Inc. (UL) is notifying consumers that current taps manufactured for Ningbo Yaling Electrical Appliance Co., Ltd. may pose a risk of fire or electric shock. The product was improperly assembled and may have an internal short circuit, resulting in a risk of fire or electric shock. The product is white and the side opposite the receptacles is provided with a molded marking "Model No.:YLCT-7," "Rating:15A 125VAC." A holographic UL label is attached to the unit. The label contains the cULus Listing Mark, the words "Current Tap" and the UL control number "71VJ." The front of the packaging is marked "6 Outlet Wall Tap." The back of the packaging is marked "Made in China."

**What you should do:** UL encourages consumers to discontinue the use of this product and contact the manufacturer or return the product to the place of purchase.

**Consumer Contact:** Ningbo Yaling Electrical Appliance Co., Ltd., Zhangqi Town, Cixi City, Zhejiang Province, China. Telephone: 86-574-87708407. E-mail: [sales@yaling.com](mailto:sales@yaling.com).

## Vail Hospital Bed Systems Alert

The following is taken from a Federal Drug Administration (FDA) Talk Paper T05-10, dated March 22, 2005, on the Internet at [www.fda.gov/bbs/topics/ANSWERS/2005/ANS01347.html](http://www.fda.gov/bbs/topics/ANSWERS/2005/ANS01347.html):

In a response to ongoing concerns about manufacturing quality and labeling, the Food and Drug Administration (FDA) and the Department of Justice today initiated seizures of all finished Vail 500, 1000, and 2000 Enclosed Bed Systems made by Vail Products, Inc., located in Toledo, OH. Use of these systems poses a public health risk because patients can become entrapped and suffocate, resulting in severe neurological damage or death. FDA is aware of approximately 30

entrapments resulting from use of the Vail Enclosed Bed Systems, of which at least seven resulted in death.

FDA advises consumers to stop using Vail 500, 1000 and 2000 Enclosed Bed Systems until they receive additional instructions from Vail Products.

## **CMS: Revised Alcohol Hand Rub Dispenser, Smoke Detector Requirements**

CMS has adopted a final rule to **allow certain health care facilities to place alcohol-based hand rub (ABHR) dispensers in egress corridors** under specific conditions. The rule adopts the substance of the National Fire Protection Association (NFPA) Tentative Interim Amendment (TIA) 00-1 as an amendment to the 2000 edition of the Life Safety Code. Facilities affected are ambulatory surgical centers, hospitals, hospices, nursing homes, and facilities serving people with developmental disabilities. This rule change, the NFPA TIA, and common Questions and Answer documents are available online at [http://dhfs.wisconsin.gov/rl\\_DSL/Providers/SmokeRubs.htm](http://dhfs.wisconsin.gov/rl_DSL/Providers/SmokeRubs.htm).

The CMS rule change mentions three items in addition to the 7 NFPA restrictions:

- (1) ABHR products are to be installed in a manner that minimizes leaks and spills that could lead to falls.
- (2) ABHR products are to be installed in a manner that adequately protects against access by vulnerable populations.
- (3) State or local jurisdictions may choose to retain or impose additional restrictions regarding the use and location of ABHR products.

The Bureau supports this revision and has no additional or more restrictive fire safety concerns at this time. **BQA Memo DSL-BQA-04-001 is now obsolete.**

In addition, CMS has adopted a final rule to require long-term care facilities (via 42 CFR 483.70(a) (7)) to install battery-operated smoke detectors in resident rooms and public spaces. The regulation will have two exceptions: (1) facilities that have hard-wired smoke detection in resident rooms and public spaces, and (2) facilities that are sprinkler protected throughout the facility. This final rule affects nursing homes and facilities serving people with developmental disabilities.

CMS is allowing facilities **one year** to comply with this regulation for two reasons: (a) a one-year timeframe will allow more advanced fire protection systems to be installed in lieu of battery operated smoke detectors, and (b) facilities will be offered flexibility in planning.

You may view this rule change, the CMS press release, and common Questions and Answer documents online at [http://dhfs.wisconsin.gov/rl\\_DSL/Providers/SmokeRubs.htm](http://dhfs.wisconsin.gov/rl_DSL/Providers/SmokeRubs.htm). This information is also covered in Survey & Certification Letter 05-25 ,dated April 14, 2005, "Adoption of a New Fire Safety Requirement for Long Term Care Facilities (Battery Powered Smoke Detector Installation)" via [www.cms.hhs.gov/medicaid/survey-cert/letters.asp](http://www.cms.hhs.gov/medicaid/survey-cert/letters.asp).

## Latest CMS Survey & Certification Letters

Below is a list of Survey and Certification (S&C) Letters distributed by CMS during the last quarter. Letters pertaining only to state agency operations are omitted. All S&C Letters can be viewed as PDF files at the Internet site [www.cms.hhs.gov/medicaid/survey-cert/letters.asp](http://www.cms.hhs.gov/medicaid/survey-cert/letters.asp). If you have questions about individual letters, contact Susan Hespen of BQA at (608) 266-0582, or e-mail [hesperj@dhfs.state.wi.us](mailto:hesperj@dhfs.state.wi.us).

Title	Number	Date
Electronic Signature Guidance – Clarification	05-14	1/13/05
Renewal of the American Association for Accreditation of Ambulatory Surgery Facilities, Inc.'s Deeming Authority for Ambulatory Surgical Centers	05-15	1/13/05
Description of Recent Changes Made to State Operations Manual (SOM), Appendix PP	05-17	2/10/05
Pressure Ulcer Prevention & Treatment Pilot – Invitation	05-18	2/10/05
Independent but Associated Deficiency Citations	05-20	3/10/05
Nursing Homes - Notification of Imminent Issuance of Appendix PP Revisions, State Operations Manual (SOM), Surveyor Guidance for Incontinence and Catheters	05-21	3/10/05
Nursing Homes and Home Health Agencies - Updated Facility Computer Specifications	05-22	3/10/05
Nursing Homes: Delay in Effective Date for Revision of Appendix PP, State Operations Manual (SOM), Surveyor Guidance for Incontinence and Catheters	05-23	4/14/05
Nursing Homes - Adoption of a New Fire Safety Requirement for Long Term Care Facilities (Battery Powered Smoke Detector Installation)	05-25	4/14/05

## Upcoming Training and Conferences

Check our online training site at [http://dhfs.wisconsin.gov/rl\\_DSL/Training/index.htm](http://dhfs.wisconsin.gov/rl_DSL/Training/index.htm).

Title of Presentation	Date and Location	Target Audience
BQA 5th Annual Conference: FOCUS 2005: Collaborating for Quality - Wisconsin Working Together	Tuesday, August 9, 2005 - Pre- Conference Session on Dementia featuring Jane Verity  Wednesday, August 10, 2005 BQA 5 <sup>th</sup> Annual Conference Appleton, Wisconsin	Caregivers, management, and BQA survey staff for assisted living facilities, nursing homes, and intermediate care facilities for persons with mental retardation

## Rural Health Clinics – Applicable Regulations

CMS August 12, 2004 Survey & Certification Letter 04-42 specified that CMS has not yet implemented the Final Rule for rural health clinics (RHC) that was published in the Federal Register on December 24, 2003 (68 FR 74792). This letter may be reviewed on the Internet at [www.cms.hhs.gov/medicaid/survey-cert/sc0442.pdf](http://www.cms.hhs.gov/medicaid/survey-cert/sc0442.pdf).

This final RHC rule was not implemented due to the regulatory requirement in section 902 of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA). The MMA limits the authority of the Secretary of Health and Human Services to issue and enforce final rules that are issued more than three years after the proposed or interim final rule.

The proposed rule for RHCs was published in the Federal Register on 2/28/2000. When the Final Rule was then published in the Federal Register on 12/24/03, it was nine months past the three-year required timeline. Section 902 of the MMA specifies that in the case of expiration of the established publication timeline, the regulation shall not continue in effect.

The RHC Final Rule is therefore withdrawn. Current Conditions of Coverage language exists in 42 CFR 491 (**10-1-2003 edition**) accessible at [www.access.gpo.gov/nara/cfr/waisidx\\_03/42cfr491\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/42cfr491_03.html). In the table of contents, click on 491.1 through 491.11 successively to view or print each condition. **Do not use the 10-1-2004 edition of 42 CFR 491**, since it includes the withdrawn Final Rule language.

With the withdrawal of the Final Rule, it is important to note that Quality Assessment and Performance Improvement (QAPI) language is not an existing requirement. CMS and the Bureau of Quality Assurance will consider RHCs that have moved to QAPI programs to be in compliance with the existing Program Evaluation requirements of 491.11.

It is expected that CMS will again publish RHC proposed rules with a request for public comment.

Questions regarding RHC regulation language can be directed to Health Services Section supervisors Jan Heimbruch at (608) 243-2086, Crenear Mims at (414) 227-4556, or provider regulation consultant Jean Kollasch at (608) 267-0466.

## Annual Self-Attestation for Prospective Payment System (PPS) Hospitals and Hospital Units Excluded From PPS

A limited group of hospitals and special hospital units are excluded from the Prospective Payment System (PPS) that determines Medicare payment for operating costs and capital-related costs of inpatient hospital services. PPS-excluded hospitals and units have their own specific reimbursement criteria. Title 42 CFR 412.20 through 412.30 describes the criteria under which these facilities are excluded. PPS-excluded status is not optional.

In the past, state agencies (SAs) have been required to conduct annual onsite surveys of these hospitals and units to verify that they continue to meet certain PPS-exclusion criteria. That procedure has changed. According to the State Operations Manual SOM 3100 (Rev. 1, 05-21-04), the revised procedure is as follows:

- Annual onsite verification surveys for rehabilitation hospitals and units, and psychiatric units are **no longer required**. These PPS-excluded hospitals/units may now self-attest, on an annual basis, that they continue to meet PPS-exclusion criteria.
- Previously excluded hospitals/units are required to report any change in operations (e.g., expansion or downsizing) to the appropriate CMS regional office (RO), and to provide the SA with a copy of the report within ten working days after the change occurs.
- The SA will conduct annual validation compliance surveys of a five percent sample of all currently excluded hospitals/units drawn at random, or conducted concurrently, while conducting a full/standard hospital survey.
- The SA will continue to conduct complaint surveys at excluded hospitals/units.
- The SA will continue to conduct certification surveys for first-time PPS exclusion for hospitals and units.

Fiscal intermediaries will continue to verify, on an annual basis, compliance with the 75 percent rule for rehabilitation hospitals and units (42 CFR Part 412.23 and 412.30); age criterion for children's hospitals (42 CFR 412.23(d)(2)); length of stay criterion for long-term hospitals (42 CFR 412.23(e)(2)); and the requirement that all excluded units are separate cost centers for cost finding and apportionment (42 CFR 412.29(a)(9)).

Section 3110A of the State Operations Manual (SOM) (Rev. 1, 05-21-04) dictates the State Agency annual re-verification process for PPS-Excluded Non-accredited, PPS-Excluded, Rehabilitation Hospitals and Units. See below.

- 120 days before the beginning of the next cost reporting period, the SA notifies the excluded hospital or unit that it must self-attest to confirm compliance with the appropriate requirements in 42 CFR 412.23(b), 412.25, and/or 412.29.
- The SA includes a copy of the attestation statement and the appropriate hospital or unit criteria worksheet (Form CMS-437A or 437B).
- The hospital/unit is to return the completed/signed worksheet and signed attestation statement to the SA office no later than 90 days before the beginning of its next cost reporting period.
- The SA transmits the completed attestation statement and worksheet, along with its recommendation for reverification, to the RO at least 60 days prior to the end of the hospital's cost reporting period for inclusion with other information necessary for determining exclusion from PPS.

## **State Operations Manual 3110B - Reverification Process for Rehabilitation Hospitals and/or Units Accredited by CARF Under CIRP or JCAHO (Rev. 1, 05-21-04)**

Accredited rehabilitation hospitals or units may be presumed to meet the criteria in SOM 3104.B or 3106.C, excluding the 75 percent rule (verified by the intermediary and the director requirement (42 CFR 412.23(b)(5) or 412.29(f)(1), as appropriate). Accredited rehabilitation hospitals/units self-attest to confirm compliance with the director requirement on Form CMS-437A or Form CMS-437B, using the same procedure and processing timeframes as used for non-accredited hospitals/units.

Note: If you are a PPS Excluded Hospital or PPS Excluded Unit of a hospital, you will be sent a letter in the next few months notifying you that you must self-attest to confirm compliance with the appropriate requirements in 42 CFR 412.23(b), 412.25, and/or 412.29.

Internet addresses for more information:

- CMS Forms: [www.cms.hhs.gov/forms/](http://www.cms.hhs.gov/forms/)
- State Operations Manual: [www.cms.hhs.gov/manuals/107\\_som/som107index.asp](http://www.cms.hhs.gov/manuals/107_som/som107index.asp)
- Code of Federal Regulations: [www.access.gpo.gov/nara/cfr/cfr-table-search.html](http://www.access.gpo.gov/nara/cfr/cfr-table-search.html)

### **Administrative Rules Update**

#### **HFS 83 – “Community Based Residential Facilities”**

The HFS 83 re-write workgroup continues to work with an advisory committee consisting of various providers and association representatives to develop the proposed rules for Chapter HFS 83. The training requirements in ch. HFS 83 have been recently developed. A final draft of the rule is anticipated by July 2005. The Department plans to submit a draft rulemaking order to the Legislative Council Rules Clearinghouse in September 2005. You may view the Statement of Scope of proposed rules on the Wisconsin Administrative Rules web-site at <http://adminrules.wisconsin.gov> for more information.

#### **HFS 124 – “Hospitals”**

The Wisconsin Administrative Register published the Statement of Scope of proposed rules to amend Chapter HFS 124 on April 1, 2005. The Department is planning to generally update ch. HFS 124 to eliminate overly prescriptive regulations, clarify the Department’s enforcement authority, and align ch. HFS 124 with Medicare by requiring compliance with federal minimum standards of operation, maintenance and patient care. For more information, you may view the Statement of Scope on the Wisconsin Administrative Rules web-site at <http://adminrules.wisconsin.gov>.



**HFS 132 - “Nursing Homes”**

The Department is proposing to update ch. HFS 132 to reflect current standards of practice, enhance the Department’s authority relating to the initial licensing of nursing homes, and remove provisions that duplicate applicable federal requirements. The proposed rules are the subject of a Statement of Scope published in the Wisconsin Administrative Register on April 15, 2005. For more information, you may view the Statement of Scope on the Wisconsin Administrative Rules web-site at <http://adminrules.wisconsin.gov>.

**HFS 133 – “Home Health Agencies”**

The Department is in the process of drafting rules to amend ch. HFS 133. On October 15, 2004, the Wisconsin Administrative Register published the “Statement of Scope” of proposed rules that are the subject of the ch. HFS 133 rule order. For more information, you may view the Statement of Scope on the Wisconsin Administrative Rules web-site at <http://adminrules.wisconsin.gov>.

**HFS 148 – “Cancer Drug Repository Program”**

On March 30, 2005, the Department submitted the legislative report and proposed rules to the legislative standing committees. Providers can find copies of these rules on the Wisconsin Administrative Rules web-site at <http://adminrules.wisconsin.gov>.

A copy of the full text of the rule, the full text of the fiscal estimate, and other documents associated with this rulemaking order are also available on this web-site.

For questions about BQA-related rules, contact Cheryl Bell-Marek at (608) 264-9896 or e-mail at [bellmcj@dhfs.state.wi.us](mailto:bellmcj@dhfs.state.wi.us).

**BQA Milwaukee Office Address Update**

There will be a room change for BQA staff in the Southeastern Regional Office in Milwaukee. The street address remains the same (819 North 6th Street), but staff will now be in Suite 609B. This change primarily affects Resident Care Review (nursing homes and facilities serving people with developmental disabilities) and Assisted Living Section staff.

Staff phone numbers will also be changing. Please go online to providers’ Contact pages via [http://dhfs.wisconsin.gov/rl\\_DSL](http://dhfs.wisconsin.gov/rl_DSL) or the regional office maps via <http://dhfs.wisconsin.gov/bqaconsumer/HealthCareComplaints.htm>.